

Remarks

Claims 1-36 are at issue. Claims 1, 15 & 25 stand rejected under 35 USC 102 as being anticipated by Emens et al (USPN 6,606,643). Claims 2-14, 16-24 & 26-35 stand rejected over Emens in view of Casagrande et al (USPN 6,381,709).

General Comments

Emens is inapplicable to the present application since it is dealing with mirror servers in a web based system. Web systems are inherently “client-server” systems where a server is always a server and not a client. The present application is directed to a “peer-to-peer” systems. The advantage of peer-to-peer systems is that every computer connected to the system is both a server and a client. According to the Webopedia computer dictionary peer-to-peer architectures are:

Often referred to simply as *peer-to-peer*, or abbreviated *P2P*, a type of network in which each workstation has equivalent capabilities and responsibilities. This differs from client/server architectures, in which some computers are dedicated to serving the others. Peer-to-peer networks are generally simpler, but they usually do not offer the same performance under heavy loads.

[\(http://www.webopedia.com/TERM/p/peer_to_peer_architecture.html\)](http://www.webopedia.com/TERM/p/peer_to_peer_architecture.html)

All the independent claims (1, 15, 25) require a peer-to-peer network. Emens is directed to “mirror servers”, which are inapplicable under a peer-to-peer network. All the rejections of the claims must be withdrawn.

Claims

Claim 1 requires a peer-to-peer network. As explained above, this is not shown in Emens. Step (b) of claim 1 requires receiving a list of servers that satisfy “the”

search. The search refers to the search of a client. The search (query) in Col. 10, lines 27-41 of Emens is by the mirror server manager 25 (Col. 10, lines 14-15) and is not a client query. The query is directed to determining the availability of the mirror servers. Clearly Emens does not anticipate or render obvious step (b) of claim 1. Step (d) requires selecting one of a plurality of downloading systems. The Examiner points to the Abstract and Col. 10, lines 52-57. Neither of these locations discuss different downloading systems. Claim 1 is clearly allowable over the prior art.

Claim 2 requires that the downloading system be the multiple concurrent downloading system. This type of downloading system is shown in FIG. 4 of the present application. Casagrande does not teach multiple concurrent downloading. Multiple concurrent downloading has two or more downloading sessions operating simultaneously that are attempting to download the whole file. Once one of the sessions has downloaded the whole file, the other session is terminated. Casagrande describes a system where if a failure is detected a new download is started from a specified offset. In addition, Casagrande is not a peer-to-peer network. This is clearly different than the "multiple concurrent downloading" system described in the present invention. Claim 2 is allowable.

Claim 3 requires a multiple concatenated download system. This is shown in FIG. 5 of the present application. Casagrande describes a system where if a failure is detected a new download is started from a specified offset. This type of download is described in the present application as a serial concatenated download. In addition, Casagrande is not a peer-to-peer network. A multiple concatenated download system does not use a failure to restart the download. Claim 3 is allowable.

Claim 4 requires a serial concatenated download system. This is shown in FIG. 3 of the present application. While the serial concatenated download system does use a failure to trigger a new download, the new download is from a second server. This is not what happens in Casagrande, who uses a single server. The addition of Emens does not change this, since Emens only redistributes the loads to servers for a query but not for the same query. Claim 4 is allowable.

Claim 5 requires determining a connection speed. This is not describe in Emens or Casagrande. CPU utilization is not connection speed. Claim 5 is allowable.

Claims 6-14 describe aspects that are specific to peer-to-peer networks. Since neither of the references cited by the Examiner deal with peer-to-peer networks they do not anticipate or render obvious these claims. Claim 6-14 are allowable.

Claim 15 requires a peer-to-peer network. As explained above, this is not shown in Emens. Step (c) of claim 15 requires receiving a list of servers that satisfy “the” search. The search refers to the search of a client. The search (query) in Col. 10, lines 27-41 of Emens is by the mirror server manager 25 (Col. 10, lines 14-15) and is not a client query. The query is directed to determining the availability of the mirror servers. Clearly Emens does not anticipate or render obvious step (c) of claim 15. Step (e) requires selecting one of a plurality of downloading systems. The Examiner points to the Abstract and Col. 10, lines 52-57. Neither of these locations discuss different downloading systems. Claim 15 is clearly allowable over the prior art.

Claim 16 deals with a unique key which is part of a peer-to-peer network. Since neither of the references cited by the Examiner deal with peer-to-peer networks they do not anticipate or render obvious this claim. Claim 16 is allowable.

Claims 17-21 describe aspects that are specific to peer-to-peer networks. Since neither of the references cited by the Examiner deal with peer-to-peer networks they do not anticipate or render obvious these claims. Claim 17-21 are allowable.

Claim 22 requires if a first server is interrupted during a download, selecting a second server to start downloading where the first server was interrupted. This type of downloading system is shown in FIG. 3 of the present application. Casagrande does not teach serial concatenated downloading, since he only discusses downloading from a single server. The addition, of Emens does not solve this problem since he only suggests downloading from a single server. Claim 22 is allowable.

Claim 23 requires two or more servers start downloading the whole file simultaneously. This type of downloading system is shown in FIG. 4 of the present application. Casagrande does not teach multiple concurrent downloading. Multiple concurrent downloading has two or more downloading sessions operating simultaneously that are attempting to download the whole file. Once one of the sessions has downloaded the whole file, the other session is terminated. In Claim 23 is allowable.

Claim 24 requires multiple concatenated download system. This is shown in FIG. 5 of the present application. Casagrande describes a system where if a failure is detected a new download is started from a specified offset. In addition, Casagrande is not a peer-to-peer network. A multiple concatenated download system does not use a failure to restart the download. Claim 24 is allowable.

Claim 25 requires a peer-to-peer network. As explained above, this is not shown in Emens. Step (b) of claim 25 requires receiving a list of servers that satisfy “the” search. The search refers to the search of a client. The search (query) in Col. 10, lines 27-41 of Emens is by the mirror server manager 25 (Col. 10, lines 14-15) and is not a client query. The query is directed to determining the availability of the mirror servers. Clearly Emens does not anticipate or render obvious step (b) of claim 25. Step (c) requires selecting one of a plurality of downloading systems. The Examiner points to the Abstract and Col. 10, lines 52-57. Neither of these locations discuss different downloading systems. Nor would it make any sense since this would require that the HTTP (Hyper Text Transfer Protocol) be changed. Claim 25 is clearly allowable over the prior art.

Claims 26-35 describe aspects that are specific to peer-to-peer networks. Since neither of the references cited by the Examiner deal with peer-to-peer networks they do not anticipate or render obvious these claims. Claim 26-35 are allowable.

Claim 36 requires a peer-to-peer network. As explained above, this is not shown in Emens. Step (b) of claim 36 requires receiving a list of servers that satisfy “the” search. The search refers to the search of a client. The search (query) in Col. 10, lines 27-41 of Emens is by the mirror server manager 25 (Col. 10, lines 14-15) and is not a client query. The query is directed to determining the availability of the mirror servers. Clearly Emens does not anticipate or render obvious step (b) of claim 36. Claim 36 is clearly allowable over the prior art.

The application is now in condition for allowance.

Correspondence Address

Law Offices of Dale B. Halling
655 Southpointe, Ste 100
Colorado Springs, CO 80906

Respectfully submitted,

(Chang)

By


Attorney for the Applicant
Dale B. Halling
Phone: (719) 447-1990
Fax: (719) 447-0983

I hereby certify that a Response is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450, on:

8/12/05

Date

Dale B. Halling

Signature (Dale B. Halling)